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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,162	07/31/2001	Jean-Christophe Renaud	LUD 5684.2 CIP (10106926)	3161
7590	02/07/2006		EXAMINER	JIANG, DONG
Fulbright & Jaworski LLP 666 Fifth Avenue New York, NY 10103			ART UNIT	PAPER NUMBER
			1646	

DATE MAILED: 02/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/919,162	RENAULD ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Dong Jiang	1646	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 15 November 2005.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 38 and 39 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 38 and 39 is/are allowed.  
 6) Claim(s) \_\_\_\_\_ is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
     1. Certified copies of the priority documents have been received.  
     2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                     | Paper No(s)/Mail Date. _____ .  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____ .                                  |

## DETAILED OFFICE ACTION

Applicant's amendment filed on 15 November 2005 is acknowledged and entered. Following the amendment, claims 3, 6, 9, 12 and 34-37 are canceled, and the new claims 38 and 39 are added.

Currently, claims 38 and 39 are pending and under consideration.

### Withdrawal of Objections and Rejections:

All objections and rejections of claims 3, 6, 9, 12 and 34-37 are moot as the applicant has canceled the claims.

### Conclusion:

Claims 38 and 39 are allowable.

### Quayle Action

This application is in condition for allowance except for the following formal matters:

It is noted that there are eight submissions of sequence listing (paper copy) in the present application. The original sequence listing filed on 7/31/01 has four sequences: SEQ ID NO:5, a nucleic acid sequence having 775 nucleotides; SEQ ID NO:6, a nucleic acid sequence having 792 nucleotides; SEQ ID NO:10, a polypeptide sequence having 230 amino acids; and SEQ ID NO:11, a polypeptide sequence having 263 amino acids. The subsequent 6 submissions, filed on 12/10/02, 2/3/03, 3/10/03, 4/29/03, 9/11/03 and 11/28/03, are identical, and they introduced major difference in comparison to the originally filed sequence listing, which is acknowledged by applicants in the statement filed on 8/2/04. Attempting to correct the sequence error, Applicants filed the 8<sup>th</sup> sequence listing on 8/2/04 with the statement indicating that it is the same as that on CRF. However, upon further review, the examiner notes that the most recent paper submission (the 8<sup>th</sup>) filed on 8/2/04 is different from the original sequence listing submitted on 7/31/01 although it is the same as that on CRF. In the most recent submission, SEQ ID NO:5 is a nucleic acid sequence having 776 nucleotides (with an additional "a" at the 3'-end of the

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molecule comparing to the original nucleic acid of SEQ ID NO:5); SEQ ID NO:6 is a polypeptide sequence having 231 amino acids (with an additional “M” at the N-terminal of the molecule comparing to the original SEQ ID NO:10, and the original SEQ ID NO:6 is a nucleic acid sequence having 792 nucleotides); SEQ ID NO:10 is a nucleic acid sequence having 792 nucleotides (whereas the original SEQ ID NO:10 is a polypeptide sequence having 230 amino acids). Therefore, it seems that applicants have introduced new matter to the original disclosure as the most recent paper submissions of sequence listing and CRF do not match the original sequence listing. Applicants are required to re-submit 1) paper copy of the sequence listing, 2) CRF copy of the sequence listing, and 3) a statement that the content of the paper and CRF copies are the same, and include no new matter. Applicant must comply with the requirements of the sequence rules (37 CFR 1.821 - 1.825) before the application can be allowed. See the attached Notice To Comply With The Sequence Rules.

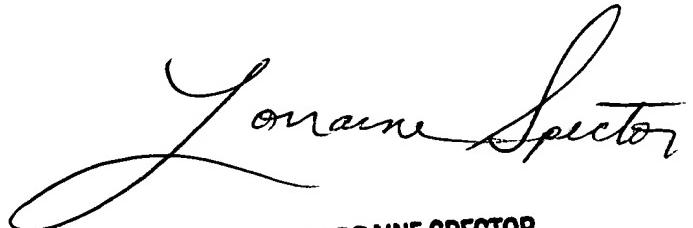
Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

**Advisory Information:**

Any inquiry concerning this communication should be directed to Dong Jiang whose telephone number is 571-272-0872. The examiner can normally be reached on Monday - Friday from 9:30 AM to 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brenda Brumback, can be reached on 571-272-0961. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Lorraine Spector

LORRAINE SPECTOR  
PRIMARY EXAMINER

Dong Jiang, Ph.D.  
Patent Examiner  
AU1646  
2/2/06